



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष १, अंक ५९ ]

गुरुवार, डिसेंबर १०, २०१५/अग्रहायण १९, शके १९३७

[पृष्ठे ८, किंमत : रुपये २७.००

असाधारण क्रमांक १२८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Maharashtra Advocates Welfare Fund (Amendment) Bill, 2015 (L. A. Bill No. LXI of 2015), introduced in the Maharashtra Legislative Assembly on the 10<sup>th</sup> December 2015, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,  
I/c. Secretary (Legislation) to Government,  
Law and Judiciary Department.

### L. A. BILL No. LXI OF 2015.

#### A BILL

*to amend the Maharashtra Advocates Welfare Fund Act, 1981.*

Mah. LXI  
of 1981.

WHEREAS it is expedient to amend the Maharashtra Advocates Welfare Fund Act, 1981, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Advocates Welfare Fund (Amendment) Act, 2015. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment  
of section 2  
of Mah. LXI  
of 1981.

**2.** In section 2 of the Maharashtra Advocates Welfare Fund Act, 1981 (hereinafter referred to as “the principal Act”),—

Mah.  
LXI of  
1981.

(a) for clause (a), the following clause shall be substituted, namely :—

(a) “Advocate” means a person whose name has been enrolled on the roll of advocates prepared and maintained by the Bar Council of Maharashtra and Goa under section 17 of the Advocates Act and who is domiciled in the State of Maharashtra and a member of any Bar Association;”;

(b) after clause (c), the following clause shall be inserted, namely :—

“(ca) “Amendment Act” means the Maharashtra Advocates Welfare Fund (Amendment) Act, 2015;”;

Mah.  
of 2015.

(c) in clause (e), after the words “the Bar Council of Maharashtra” the words “and Goa” shall be inserted;

(d) for clause (g), the following clause shall be substituted, namely:—

“(g) “dependents” means wife, husband, father, mother, minor children or any married daughter who is divorcee or who is depending on the member of the Fund;”;

(e) after clause (g), the following clauses shall be inserted, namely :—

“(ga) “existing member of the Fund” means an Advocate who is member of the Fund on the date of commencement of the Amendment Act;

(gb) “Fund” means the Advocates Welfare Fund constituted under section 3;”;

(f) after clause (j), the following clause shall be inserted, namely :—

“(ja) “retirement from the Fund” means voluntary retirement of any member of the Fund after being member of the Fund for fifteen years from the date of becoming the member of the Fund;”;

(g) in clause (o), after the words “by whatever name called” the words “and includes any authority letter,” shall be inserted.

Amendment  
of section 3  
of Mah. LXI  
of 1981.

**3.** In section 3 of the principal Act, in sub-section (2), in clause (j), the word “annual” shall be deleted.

Amendment  
of section 12  
of Mah. LXI  
of 1981.

**4.** In section 12 of the principal Act, in sub-section (6), after the words, brackets and figure “sub-section (5)” the words “as early as possible but in any case within a period of three months from the date of receipt of such audit report or directions” shall be added.

Amendment  
of section 15  
of Mah. LXI  
of 1981.

**5.** In section 15 of the principal Act, in sub-section (2), after the words “Every Bar Association” the words, brackets and figures “recognized and registered as per sub-section (1) of section 14” shall be inserted.

Amendment  
of section 16  
of Mah. LXI  
of 1981.

**6.** In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “may apply” the words “shall apply” shall be substituted;

(ii) the following proviso shall be added, namely :—

“Provided that, every Advocate who is not the existing member of the Fund on the date of commencement of the Amendment Act shall apply for admission as a member of the Fund within a period of six months from the date of commencement of the said Amendment Act.”;

(b) in sub-section (3),—

(i) in clause (i), for the words “for a period of twelve years or more, be two hundred rupees” the words “for a period of ten years or more, be one thousand rupees” shall be substituted ;

(ii) in clause (ii), for the words “for a period of less than twelve years, be one hundred rupees” the words “for a period of less than ten years, be five hundred rupees” shall be substituted ;

(iii) the portion beginning with the words “and such application” and ending with the words “payable alongwith the application” shall be deleted ;

(c) in sub-section (4), for the words “the first instalment of the admission fees paid” the words “the application fees paid” shall be substituted ;

(d) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely :—

“(5) Every member of the Fund shall pay rupees ten thousand only as subscription in the following manner, namely :—

(i) when the standing of the advocate at the time of his admission as a member of the Fund is ten or more years, he shall pay the said amount in lump sum at one time ;

(ii) when the standing of the advocate at the time of his admission as a member of the Fund is less than ten years, he may pay the said amount in one lump sum or in four equal yearly instalments with the condition that after payment of first instalment, the remaining three instalments will fall due on even dates in subsequent three years :

Provided that, the existing members of the Fund shall pay the said subscription amount after deduction of the annual subscription paid by them prior to the commencement of the Amendment Act:

Provided further that, after the date of commencement of the Amendment Act,—

(a) the existing members having standing of ten or more years on the said date, shall pay the balance of subscription within one year from such commencement; and

(b) the existing members having standing of less than ten years on the said date, shall pay the balance of subscription in one lump sum or in four equal instalments with the condition that first instalment shall be paid within one year from such commencement and remaining three instalments will fall due on even dates in subsequent three years.

(6) If any advocate fails to pay the lump sum subscription or the instalment, as the case may be, in the manner laid down in sub-section (5), then such advocate shall be liable to pay the penalty of rupees fifty per month for the period of default from the due date till the date of payment.”;

Amendment  
of section 17  
of Mah. LXI  
of 1981.

(e) in sub-section (7),—

(i) the word “annual” shall be deleted ;

(ii) the word “half” shall be deleted.

7. In section 17 of the principal Act,—

(a) in sub-section (1), the proviso shall be deleted ;

(b) for sub-sections (2), (3) and (4), the following sub-sections shall be substituted, namely :—

“(2) (a) A member of the Fund shall be eligible and entitled for the retirement benefits at any time after completion of fifteen years from the date of his admission as a member of the Fund, of the amount as mentioned in the Schedule.

(b) If any member opts for retirement benefits at any time before the completion of fifteen years from the date of his admission as a member of the Fund, then he shall be entitled only to a refund of the amount which he has paid as subscription with the Trustee Committee together with the interest at the rate of 6 per cent. per annum from the date of payment till the date of his retirement from the Fund.

(c) Member suffering from permanent disablement resulting in permanent cessation of practice shall be allowed to retire at any time before completion of fifteen years of his membership of the Fund and shall be entitled to receive the amount as mentioned in the Schedule.

(3) In case a member of the Fund dies within a period of fifteen years of his admission to the Fund, his nominee or legal heir, as the case may be, shall be entitled to get an amount at the rate mentioned in the Schedule.

(4) After the commencement of the Amendment Act, if the existing members of the Fund does not pay in lump sum or in instalments his dues or balance of his subscription calculated on the basis of revised rate of one time payable subscription in the manner provided in sub-section (5) of section 16 and he fails to pay the penalty under sub-section (6) of section 16, then he shall be deemed to have been retired from the Fund on the date of commencement of the said Amendment Act; and in case of such deemed retirement,—

(i) such member shall be entitled to; or

(ii) in case of death of such member, his nominees, heir or family members shall be entitled to,

the benefits as provided by the provisions of the Schedule appended to this Act as existing prior to the commencement of the said Amendment Act.”;

(c) sub-section (5) shall be deleted;

(d) sub-section (7) shall be deleted;

(e) in sub-section (8),—

(i) the word, brackets and figure “or (7)” shall be deleted;

(ii) after the words “as it deems necessary” the words “within a period of three months from the date of receipt of said application and the refund, if any, shall be given as early as possible” shall be added.

8. In section 18 of the principal Act,—

Amendment  
of section 18  
of Mah. LXI  
of 1981.

(a) in sub-section (1), for the words “two rupees” the words “twenty rupees” shall be substituted;

(b) in sub-section (2), after the words “only to the members of the Fund” the words “through the Bar Association or through credit consumer society of the advocates or any other prescribed agency, as the case may be,” shall be added ;

(c) in sub-section (4), after the words “through the Bar Associations” the words “, the credit consumer society of the advocates or any other prescribed agency, as the case may be,” shall be added;

(d) in sub-section (5), after the words “The Bar Associations” the words “, the credit consumer society of the advocates or any other prescribed agency, as the case may be,” shall be inserted;

(e) in sub-section (6), after the words “The Bar Associations” the words “, the credit consumer society of the advocates or any other prescribed agency” shall be inserted.

9. For the SCHEDULE to the principal Act, the following SCHEDULE shall be substituted, namely :—

Substitution of  
SCHEDULE to  
Mah. LXI of  
1981.

“SCHEDULE

(See sections 11 and 17)

30 years' of membership	Rs. 3,00,000
29 years' of membership	Rs. 2,90,000
28 years' of membership	Rs. 2,80,000
27 years' of membership	Rs. 2,70,000
26 years' of membership	Rs. 2,60,000
25 years' of membership	Rs. 2,50,000
24 years' of membership	Rs. 2,40,000
23 years' of membership	Rs. 2,30,000
22 years' of membership	Rs. 2,20,000
21 years' of membership	Rs. 2,10,000
20 years' of membership	Rs. 2,00,000
19 years' of membership	Rs. 1,90,000
18 years' of membership	Rs. 1,80,000
17 years' of membership	Rs. 1,70,000
16 years' of membership	Rs. 1,60,000
15 years' of membership	Rs. 1,50,000
14 years' of membership	Rs. 1,40,000
13 years' of membership	Rs. 1,30,000
12 years' of membership	Rs. 1,20,000
11 years' of membership	Rs. 1,10,000
10 years' of membership	Rs. 1,00,000
9 years' of membership	Rs. 90,000
8 years' of membership	Rs. 80,000
7 years' of membership	Rs. 70,000
6 years' of membership	Rs. 60,000
5 years' of membership	Rs. 50,000
4 years' of membership	Rs. 40,000.”.

## STATEMENT OF OBJECTS AND REASONS.

The Maharashtra Advocates Welfare Fund Act, 1981 (Mah. LXI of 1981), has been enacted for the constitution of an Advocates Welfare Fund and utilization thereof for payment of certain retirement and other benefits to the Advocates in the State of Maharashtra. The said Act has vested the management of the said Fund in the Trustee Committee, which is a body corporate.

For the effective implementation of the said Act and to augment the Fund, it is considered expedient to amend sections 2, 3, 12, 15, 16, 17 and 18 of the said Act, and to substitute the Schedule appended thereto. For that purpose, it is proposed to,—

(a) amend section 2 of the said Act to,—

(i) substitute clause (a) thereof, to re-define the term “Advocate”, so as to make the said Act applicable to the advocate, who has been enrolled on the roll of advocates prepared and maintained by the Bar Council of Maharashtra and Goa under section 17 of the Advocates Act, 1961 (25 of 1961) and who is domiciled in the State of Maharashtra and a member of the Bar Association; and

(ii) amend clause (e) thereof, so as to change the name of the Bar Council of Maharashtra, in view of the provisions of clause (ccc) of sub-section (1) of section 3 of the Advocates Act, 1961 (25 of 1961) which provides that there shall be a Bar Council for the States of Maharashtra and Goa, and the Union territories of Dadra and Nagar Haveli and Daman and Diu, to be known as the Bar Council of Maharashtra and Goa ;

(iii) insert clause (ca) therein, to define the term “Amendment Act”, consequent to the amendments proposed to the said Act ;

(iv) substitute clause (g) thereof, for substituting the term “dependents”, so as to include the married daughter who is a divorcee or who is depending upon the member of the Fund, in the definition of the said term ;

(v) insert clauses (ga) and (gb) therein, to define the terms “existing member of the Fund” and “Fund” consequent to the amendments proposed to the said Act ;

(vi) insert clause (ja) therein, to define the term “retirement from the Fund”, so as to permit the member of the Fund to opt for voluntary retirement from the Fund after fifteen years of membership of the Fund ;

(vii) amend clause (o) thereof, to amend the term “Wakalatnama”, so as to include therein any authority letter ;

(b) amend clause (j) of sub-section (2) of section 3 of the said Act, consequent to the amendments proposed to sub-sections (5) and (7) of section 16 of the said Act ;

(c) amend section 12 of the said Act to impose some additional duties on the Trustee Committee to comply with the auditor’s report in time ;

(d) amend section 15 of the said Act, to clarify the existing provisions regarding recognition and registration of the Bar Associations ;



(e) amend section 16 of the said Act, to make the membership of the Fund compulsory for all the Advocates, on the lines of section 18 of the Advocates Welfare Fund Act, 2001 (45 of 2001), with revised fee;

(f) amend section 17 of the said Act, so as to provide for the benefits of the Fund to the new members as well as the existing members of the Fund;

(g) amend section 18 of the said Act, to enhance the value of the stamp to be affixed on the *Wakalatnama* to augment the resources of the Fund and also to provide for distribution and sale of stamps through the consumer society of the advocates or any other prescribed agency along with the Bar Associations; and

(h) substitute the Schedule appended to the said Act, for enhancing the benefits under the Act.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 3<sup>rd</sup> December 2015.

DEVENDRA FADNAVIS,

Chief Minister.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

*Clause 1(2).*—Under this clause, power is taken to the State Government to bring the Act into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*Clauses 8(b), (c), (d) and (e).*—Under this clause, which seeks to amend sub-sections (2), (4), (5) and (6) of section 18 of the Maharashtra Advocates Welfare Fund Act, 1981, power is taken to the Bar Council of Maharashtra and Goa to prescribe, by regulations, the agency for the purposes of distribution and sale of stamps under the said section 18 and also for control and regulation thereof.

2. The above-mentioned proposals for delegation of legislative power are of normal character.